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Letter dated 14 December 2005 from the Permanent Representative of Uzbekistan to the United Nations addressed to the Secretary-General

I have the honour to draw your attention to the fact that in the statement of the European Union, circulated on 2 December 2005 as a Security Council document (S/2005/750), the European Union expressed its concern about the criminal procedures launched by the law enforcement bodies of Uzbekistan with regard to several Uzbek citizens.

With the purpose of providing the international community with objective and accurate information about the cases of those persons whose names appeared in the above-mentioned statement, I would like to forward to you the attached information on this matter (see annex).

I would appreciate it if you could circulate the present letter and its annex as a document of the sixtieth session of the General Assembly, under agenda items 106 and 108, and of the Security Council.

(*Signed*) Alisher **Vohidov**
Permanent Representative of the Republic of Uzbekistan

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Annex to the letter dated 14 December 2005 from the Permanent Representative of Uzbekistan to the United Nations addressed to the Secretary-General

[Original: Russian]

Comments by the Republic of Uzbekistan on the European Union statement of 8 November 2005 on the human rights situation in Uzbekistan, distributed as a Security Council document on 2 December 2005

The statement by the European Union concerning the alleged persecution in Uzbekistan of human rights defenders and journalists bears no relation to the facts. The distribution of such statements is viewed by Uzbekistan as a deliberate distortion of the true state of affairs in Uzbekistan with the intention of applying political pressure on the country.

With a view to bringing before the international community objective information regarding the persons about whom the European Union has expressed its concern, Uzbekistan considers that the following facts should be noted:

Any action taken by the Uzbek law-enforcement agencies to arrest and keep in detention persons suspected of committing criminal acts is carried out in accordance with the country's criminal and criminal-procedure legislation and with international legal standards.

Uzbekistan therefore considers the attempts by the European Union to cast doubt on the actions of the Uzbek authorities to ensure public and national order and prevent crime in the country to be subjective, tendentious and groundless.

In Uzbekistan, the right to engage in human rights or any other humanitarian activity is not infringed in any way, unless it runs counter to national legislation.

Specifically, the investigation concerning Mr. S. Umarov is taking place in connection with charges that, as part of an organized group, he committed economic offences and is not in any way connected with his social and political activities.

In accordance with generally accepted international standards, after the charges were read out, Mr. Umarov was informed of the rights and obligations of an accused person. Mr. Umarov has been provided with the services of defence counsel (Mr. V. Krasilovsky and Ms. M. Burnasheva), who have free access to him and are protecting all the rights of their client.

In order to assess Mr. Umarov's state of health, two medical examinations were carried out, the first, by order of the investigating authorities, by an expert from the Forensic Medicine Office of the Central Health Directorate of Tashkent, in the presence of witnesses, and the second, at the request of Mr. Umarov's lawyers, by specialists from a psycho-neurological clinic. Both examinations indicated that Mr. Umarov was not suffering from any physical injuries or mental disease. Moreover, Mr. Umarov himself denies that he was subjected to any impermissible physical or psychological procedures or that he was given any psychotropic drugs.

Ms. E. Urlaeva was arrested for distributing materials that insulted the State symbols of the Republic of Uzbekistan. Such activities are criminally punishable in accordance with article 215 of the Criminal Code (Desecration of State Symbols of the Republic of Uzbekistan).

In view of the fact that Ms. Urlaeva had previously suffered from mental disease, the investigators took the decision to conduct a forensic psychiatric examination concerning her mental capacity and her psychological state at the time that the offence was committed. In accordance with the conclusions of the examination, which took place on 28 August 2005, Ms. Urlaeva was pronounced mentally unfit to plead.

On the basis of the conclusions of the psychiatric examination and articles 265 and 266 of the Code of Criminal Procedure, the court ruled that Ms. Urlaeva should be placed in a psychiatric institution and absolved her of criminal liability in the light of the diagnosis. The court also ruled that she should undergo a course of treatment in a psychiatric hospital. Ms. Urlaeva's treatment has now been completed and she has been discharged from hospital.

Mr. S. Zainabiddinov was charged with preparing and distributing materials that constituted a threat to public safety and order. The materials distributed by Mr. Zainabiddinov contained false information aimed at arousing public panic and undermining the constitutional order of Uzbekistan.

The investigation concerning this person is currently still in progress, and he has enjoyed all the rights guaranteed under the law in full measure. He enjoys the services of a lawyer (Ms. M. Akhmedova) that he himself chose.

Mr. D. Khajiev, Mr. T. Khajhiev, Mr. K. Shakirov and Mr. M. Kodirov played an active part in organizing and carrying out the terrorist acts committed in Andijan on 13 May 2005, resulting in 187 deaths.

In carrying out these actions, the persons concerned committed offences covered by a range of articles of the Criminal Code, including article 97 (Wilful homicide, with aggravating circumstances), article 155 (Terrorism), article 159 (Infringement of the constitutional order of Uzbekistan), article 242 (Organization of a criminal association), article 244 (Mass rioting), and article 247 (Unlawful possession of a firearm, ammunition, or explosive materials devices).

The preliminary investigation revealed that the aforementioned persons were in hiding in the territory of Kyrgyzstan. In this connection, the General Prosecutor's Office of Uzbekistan, in full conformity with the norms of international law, sent a request to the General Prosecutor of Kyrgyzstan for their extradition to the investigating agencies of Uzbekistan for criminal prosecution.

However, these persons voluntarily returned to Uzbekistan before the request was fulfilled and they sent the Andijan district prosecutor a statement with a confession acknowledging their participation in the terrorist acts of 13 May 2005 in Andijan.

The voluntary return of the aforementioned persons is also confirmed by reply No. 8/1-14 of 5 June 2005 by the General Prosecutor's Office of Kyrgyzstan indicating that the requests by the General Prosecutor's Office of Uzbekistan for the extradition of Mr. Shakirov, Mr. D. Khajiev, Mr T. Khajiev, and Mr. Kodirov were not acted upon since these persons returned voluntarily to Uzbekistan.

The criminal investigation concerning the aforementioned persons was conducted in full conformity with the norms of national legislation on criminal procedure.

In accordance with the results of the judicial proceedings, the court, having found the accused guilty under the relevant articles of the Criminal Code of Uzbekistan and having taken into account their sincere repentance, sentenced Mr. T. Khajiev to 17 years imprisonment,, Mr. Shakirov to 13 years and Mr. Kodirov to 17 years.

The preliminary investigation concerning Mr. D. Khajiev is still in progress.

Uzbekistan should like to point out once again that the publication of the European Union statement as an official document of the Security Council once again confirms the intention on the part of individual Western countries to use international organizations in order to achieve their self-interested political goals. The European Union statement concerning Uzbekistan is politically motivated and has nothing in common with a real concern about democracy or human rights in the country.